IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.24896 of 1998

Dated: March 21, 2007

Between:

Smt. M. Saraswathi, D/o. Appalanaidu,
D.No.8-7-1, Appanna Colony, Mindi
Post, Visakhapatnam.

... Petitioner

And

The Secretary, B.H.P.V.S.C.C. Store Ltd.,
Nathayyapalem, Visakhapatnam.

... Respondent

Order:

By this Writ Petition, petitioner has questioned the Award dated
23-07-1998, passed by the Industrial Tribunal, Visakhapatnam, in I.D.No.522/94.

2. In the affidavit filed in support of the Writ Petition, it is stated that petitioner joined as 'Packer' in the respondent-store on

compassionate grounds during the year 1984. She was working in Kirana Stores division and on 22-12-1993, she was temporarily shifted to Cloth division. While things stood thus, departmental proceedings were initiated against the petitioner alleging that she has committed theft of a saree and a retired Deputy Registrar of Cooperative Societies was appointed as enquiry officer to enquire into the allegations levelled against the petitioner. The enquiry officer submitted his report finding the petitioner guilty. Based on the same, she was removed from service by order dated 22-12-1993. Challenging her removal from service, petitioner had filed an application before the Industrial Tribunal, Visakhapatnam, under Section 2(A) 2 of the Industrial Disputes Act. In the said application, petitioner did not lead any evidence. As much as the allegation levelled against the petitioner that she had committed theft of a saree from the respondent-stores was proved in the departmental enquiry, the Tribunal, by the impugned Award, confirmed the order of her removal. Challenging the said Award, petitioner has come up with this Writ Petition.

3. The only submission made by the learned counsel for the petitioner is that when an allegation of theft was levelled against the petitioner, respondent ought to have taken steps to prosecute the petitioner, but solely basing on the domestic enquiry, order of removal should not have been passed. The said submission cannot be accepted for the reason that, even in the absence of any criminal proceedings, it is always open for the respondent to initiate departmental proceedings and conduct enquiry by appointing an enquiry officer. In this case, respondent has

appointed an enquiry officer to enquire into the theft alleged to have been committed by the petitioner. The enquiry officer, after examining four witnesses, recorded a finding that the charge levelled against the petitioner was proved. Based on the said enquiry report, petitioner was removed from service. Apart from the evidence recorded in the departmental enquiry, it is stated that petitioner herself admitted about commission of theft and sought pardon. In view of the findings recorded in the departmental enquiry and in the absence of any further evidence from the petitioner's side, I do not find any illegality in the Award dated 23-07-1998, passed by the Industrial Tribunal, Visakhapatnam, in I.D.No.522/94, warranting interference under Article 226 of the Constitution of India.

4. The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

JUSTICE R. SUBHASH REDDY.

March 21, 2007
MRR